

December 9, 2021
ECONOMIC DEVELOPMENT COMMITTEE
REPORT NO. 18

ALL MEMBERS PRESENT
CHAIR BASKIN PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following item is hereby received filed, and printed:
- a. COMM. 24E-5 (2021)
LORIGO: “Minority Caucus Appointment to the Visit Buffalo Niagara Board of Directors”
(Chair’s Ruling)

November 18, 2021

Hon. Robert M. Graber
Clerk of the Erie County Legislature
Legislative Chambers
92 Franklin Street – 4th Floor
Buffalo, New York 14202

RE: Minority Caucus Appointment to the Visit Buffalo Niagara Board of Directors

Dear Mr. Graber:

Pursuant to the bylaws of Visit Buffalo Niagara, the Erie County Legislature’s Minority Caucus shall designate one individual to serve on their Board of Directors.

Our Caucus’ designated position on the Board of Directors is currently vacant. Please receive, file and print the attached petition, signed by the entire Minority Caucus formally appointing Mr. William Paladino as our designee on the Visit Buffalo Niagara Board of Directors.

Please forward a certified copy of the petition to the President and CEO of Visit Buffalo Niagara. Thank you for your attention to this matter.

Sincerely,

JOSEPH C. LORIGO
Minority Leader
Legislator, District 10

2. RESOLVED, the following items are hereby received and filed:
- a. COMM. 6E-25 (2021)
TODARO: “Letter to Economic Development Chair Requesting Discussion of High-Speed Internet Expansion in EC”
(Chair’s Ruling)
- b. COMM. 20M-6 (2021)
ECIDA: “2022 Budgets for ECIDA, RDC and ILDC”
(Chair’s Ruling)
- c. COMM. 21M-3 (2021)
JIM RUDNICKI: “Comments Concerning the Proposed Buffalo Bills Stadium”
(Chair’s Ruling)
- d. COMM. 24E-36 (2021)
LORIGO, GREENE, TODARO & MILLS: “Request to ED Committee Chair for Discussion on ErieNet”
(Chair’s Ruling)
3. COMM. 21E-11 (2021)
COUNTY EXECUTIVE
WHEREAS, the Department of Public Works, Division of Highways is responsible for progressing current and future projects to improve the County’s infrastructure; and
- WHEREAS, the Division of Highways has been working shorthanded for the past two years due to a retirement and promotion which left a Senior Civil Engineer position vacant and difficult to fill with a qualified candidate, due to the level of starting salary; and
- WHEREAS, fewer Federal Aid projects have been able to be completed in the necessary time frame due to the vacant Senior Civil Engineer position; and
- WHEREAS, as such, the Department of Public, Division of Highways is requesting authorization to fill the vacant title of Senior Civil Engineer at a variable minimum; and
- WHEREAS, funding for this change is already available in the 2021 Division of Highways operating budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the hiring of one Senior Civil Engineer in the Department of Public Works, Division of Highways, Job Group 14, at a variable minimum hiring level of Step 3 with an annual salary of \$79,400; and be it further

RESOLVED, that the Division of Budget and Management is hereby authorized to make any necessary budgetary adjustments to the Division of Highways budget; and be it further

RESOLVED, that certified copies of this resolution will be forwarded to the County Executive, the Office of the Comptroller, the Department of Personnel, the Division of Budget and Management, and the Department of Public Works.
(6-0)

4. COMM. 21E-12 (2021)
COUNTY EXECUTIVE

WHEREAS, the Rehabilitation of Borden Road - CR322 (the Project) was approved by your Honorable Body via COMM 15E-12 (July 23, 2020) and COMM 8E-33 (April 29, 2021); and

WHEREAS, as part of the Project it is intended to rehabilitate Borden Road from Strasmer Road to Broadway (NY 130); and

WHEREAS, Erie County DEP, Division of Sewerage Management (DSM) has determined through inspection that a section of 30-inch diameter force main approximately from Strasmer Road to just north of Rowley Road imminently requires replacement; and

WHEREAS, in that same section of road the Erie County Water Authority (ECWA) has approximately 1400 linear feet of 8” diameter cast iron watermain that is slated for replacement; and

WHEREAS, it is desired to reduce the overall cost of the work, limit duplication of effort and to limit disruption during construction to area residents and the travelling public; and

WHEREAS, this may be accomplished by including design of the replacement of both the DSM force main and the ECWA water line in the design for the Project; and

WHEREAS, DSM agrees to be responsible for 100% of the cost of engineering design services for replacement of the force main which is estimated to be \$76,300; and

WHEREAS, ECWA agrees to be responsible for 100% of the cost of engineering design services for replacement of the water line which is estimated to be \$19,550; and

WHEREAS, it is desired to amend the design contract of the Project consultant, Bergmann Associates, to include the engineering design services necessary for the replacement of the DSM force main and the ECWA water line; and

WHEREAS, it is desired to advertise the Project including the DSM force main and the ECWA water line early in 2022; and

WHEREAS, to meet this schedule pending execution of the necessary inter-agency agreement between the County and ECWA the County will fund the design of the water line in the first instance from funds already approved for the Project and will invoice ECWA for reimbursement thereof; and

WHEREAS, reimbursement from ECWA will be used to replenish existing County Project design funds advanced by the County to permit an accelerated Project schedule.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves inclusion of replacement of the DSM force main and the ECWA water line in the Project; and be it further

RESOLVED, that the County Executive is hereby authorized to execute an agreement with ECWA, subject to the County Attorney’s approval as to form and content, regarding incorporation of the waterline replacement into the Project and the ECWA’s responsibility to provide 100% of the funding for the necessary engineering design services including any approved cost overruns or unanticipated expenses; and be it further

RESOLVED, that the County Executive is authorized to execute a contract amendment with Bergmann Associates for engineering design services in the total amount of \$95,850 for design engineering services for replacement of the DSM force main and ECWA water line; and be it further

RESOLVED, that the funding for the design of the DSM force main is hereby appropriated from Fund 430, Funds Center 181, C.17401 – Erie County Sewer District No.4 Capital Project and made available for the project as follows:

C.17401 - Erie County Sewer Dist.No. 4 Cap. Project	\$76,300
Total	<u>\$76,300</u>

and be it further

RESOLVED, that funding for the engineering design services for the water line is authorized from existing Project design funds in Fund 420, Funds Center 123, B.20005 – 2020 Preservation of Roads as follows:

<u>B.20005 – 2020 Preservation of Roads</u>	<u>\$19,550</u>
Total	\$19,550

and be it further

RESOLVED, that upon full execution of an agreement between Erie County and ECWA regarding the water line replacement, the County is hereby authorized to invoice the ECWA for water line design costs, accept reimbursement funds from ECWA and to replenish the project budget in Fund 420, Funds Center 123, B.20005 – 2020 Preservation of Roads in the amount expended not to exceed \$19,550; and be it further

RESOLVED, that three (3) certified copies of this resolution be forwarded to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget and Management, the Office of the County Attorney, and the Office of the Comptroller.
(6-0)

5. COMM. 21E-13 (2021)
COUNTY EXECUTIVE

WHEREAS, the existing 28-year-old competition pool plaster is showing signs of widespread discoloration and local separation; the recirculation, existing filtration, and chemical systems for the competition and warm-up pools are original to the building and necessitate equipment upgrades as failure or further deterioration will be detrimental to the operation of the facility; and current NYS Health Department swimming pool code requirements, life safety, and accessibility requirements need to be addressed; and

WHEREAS, the County of Erie received bids for the SUNY Erie Community College City Campus Burt Flickinger Athletic Center 2021 Natatorium Improvements project on Thursday, October 28, 2021; and

WHEREAS, the lowest responsible bidders for the general construction work is Patterson-Stevens, Inc. and electrical construction work is CIR Electrical Construction Corporation; and

WHEREAS, the County will receive 50% reimbursement from New York State for this project; and

WHEREAS, the Department of Public Works and CHA Consulting Inc. are recommending award of the contract to the lowest responsible bidders.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into a contract with the lowest responsible bidders for SUNY Erie Community College City Campus Burt Flickinger Athletic Center 2021 Natatorium Improvements project for an amount not to exceed as follows:

<u>General Construction Work</u>	
Patterson-Stevens, Inc.	Base Bid: \$ 1,595,450
	Add Alternate No. G-01 \$ 36,000
	Add Alternate No. G-02 \$ 28,935
	Add Alternate No. G-03 \$ 11,245
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Total Award of General Construction Contract:	\$1,671,630
<u>Electrical Construction Work</u>	
CIR Electrical Construction Corporation	Base Bid: \$ 178,250
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Total Award of Electrical Construction Contract:	\$ 178,250

and be it further

RESOLVED, that the sum of \$150,120 be allocated to a Construction Contingency Fund with authorization for the County Executive to approve change orders in an amount not to exceed the Contingency Fund; and be it further

RESOLVED, that change order reductions will result in these funds being returned to the Construction Contingency Fund; and be it further

RESOLVED, that the Comptroller’s Office be authorized to make payment for all the above from the approved 2020 Capital Budget, Fund 480, Funds Center 122, E.20001 - Erie Community College Collegewide Improvements and Renovations, in an amount not to exceed \$2,000,000; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner’s Office, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller, and one copy to SUNY Erie and Financial Officer.
(6-0)

6. COMM. 24E-11 (2021)

COUNTY EXECUTIVE

WHEREAS, Erie County wishes to honor and memorialize the contributions of trailblazing women to the Western New York Community; and

WHEREAS, A Trailblazing Women Monument Steering Committee led by the Executive Director of the Erie County Commission on the Status of Women was established to honor pioneering women from Western New York; and

WHEREAS, the Steering Committee determined that the planter on the plaza of the Buffalo & Erie County Public Central Library was the desired location for the monuments, which was also approved by the Library Trustees; and

WHEREAS, on August 27, 2021 the Erie County Department of Environment & Planning issued and advertised a Request for Proposals for site design engineering and construction oversight services to modify an existing stone planter on the outdoor plaza entrance to the Buffalo & Erie County Public Central Library to accommodate the Trailblazing Women Monuments; and

WHEREAS, five proposals were received by the October 1, 2021 deadline from the following companies; Foit Albert, Watts AE, Trautman Associates, LiRo, and Popli Group; and

WHEREAS, a Proposal Selection Committee was established and the four members independently reviewed, scored and ranked all five proposals received based on the selection criteria; and

WHEREAS, it was the unanimous vote of the Proposal Selection Committee to choose Trautman Associates proposal for the project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive or Deputy County Executive, is hereby authorized to enter into an agreement with Trautman Associates for an amount not to exceed \$55,890.00 to perform site design engineering and construction oversight services for Erie County; and be it further

RESOLVED, that the project is funded in the Department of Environment and Planning's capital projects account A.21159 in BA 162; and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments as required to comply with State and local funding requirements; and be it further

RESOLVED, that certified copies of this resolution shall be furnished to the Office of the County Executive; the Director of the Division of Budget and Management; the Office of the County Attorney; the Office of the County Comptroller; Dr. Karen King, Commissioner of Public Advocacy; Daniel Castle, Commissioner of Environment and Planning, and Bonnie Lawrence, Deputy Commissioner of Environment and Planning.
(6-0)

7. COMM. 24E-14 (2021)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning ("DEP") previously engaged ECC Technologies, Inc. ("ECC") to perform a broadband feasibility study to provide analysis and guidance for the planning and development of broadband improvement strategies to support economic development in Erie County (the "County"); and

WHEREAS, ECC issued a Final Report, dated March 31, 2017 (the "ECC Final Report"), which concluded that an open access network of high-speed broadband infrastructure ("OAN") is an essential utility and critically needed asset to establish enhanced communication infrastructure among communities within the County; and

WHEREAS, the establishment of an OAN with dedicated fiber optic cabling installed throughout the County would provide critical infrastructure benefitting the County and local governments, educational facilities, public libraries, commercial and industrial businesses, residential properties, and other major employers and institutions; and

WHEREAS, this broadband network (hereinafter referred to as "ErieNet") would establish a backbone of technology infrastructure to not only fulfill core governmental communication needs, but also serve as an invaluable economic development tool benefitting the entire region; and

WHEREAS, the ECC Final Report recommended that a County-controlled provider be established to finance, build-out, control and maintain ErieNet to provide a not-for-profit broadband "dark fiber" infrastructure that is accessible by public and private organizations, including private providers which would light ErieNet with broadband service for customers of ErieNet; and

WHEREAS, given the inherent need for ErieNet to serve both public and private sector needs and customers, it has been determined that the best approach to accomplish the deployment of ErieNet is through the establishment of a local development corporation controlled by the County as a quasi-governmental entity to undertake the planning, design, engineering, right-of-way acquisition, construction, operation, facility leasing, fiber licensing and subscription administration, and maintenance of the overall project.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the incorporation of ErieNet Local Development Corporation (the “Corporation”) pursuant to and in accordance with Section 1411 of the New York Not-for-Profit Corporation Law (“N-PCL”) as a charitable not-for-profit local development corporation of the State of New York (the “State”) with purposes and powers included and as set forth within N-PCL Section 1411 (hereinafter, the “Act”), and pursuant to the form of Certificate of Incorporation (the “Certificate”) attached hereto as Exhibit A, which shall be filed with the Department of State, Division of Corporations; and be it further

RESOLVED, that the Corporation will be charged with undertaking the overall ErieNet Project in accordance with the purposes and powers vested with local development corporations pursuant to the Act; and be it further

RESOLVED, that the Corporation will be established with the County serving as sole member, acting by and through the County Executive, with an initial appointed board of directors (the “Board”) consisting of the following persons, serving in their ex officio capacities as elected and appointed officials of the County: Erie County Legislature Majority Leader Timothy Meyers, Erie County Legislature Minority Leader Joseph Lorigo, Erie County Deputy Budget Director Benjamin Swanekamp; Erie County Chief Information Officer Michael Breeden; Erie County Attorney Michael Siragusa; Erie County Commissioner of Environment and Planning Daniel Castle; and the Director of the Buffalo and Erie County Public Library Jeannine M. Doyle; and be it further

RESOLVED, that pursuant to Section 2 of the Public Authorities Law (“PAL”) of the State, the provisions of the Public Authorities Accountability Act of 2005, as amended by Chapter 506 of the Laws of 2009 of the State of New York (“PAAA”), the Corporation shall be deemed and considered a “local authority,” and thereby comply with all applicable open government and accountability requirements, including PAAA, the Open Meetings Law (“OML”) and Freedom of Information Law (“FOIL”); and be it further

RESOLVED, that following the filing of the Certificate, the Board is hereby authorized and directed to schedule, notice and conduct an organizational meeting of the Corporation, whereat the Board shall consider for adoption certain organizational matters, including but not limited to the adoption of By-laws and certain policies, standards and procedures to comply with the provisions of the PAAA, OML and FOIL; and be it further

RESOLVED, that the County Executive and the Board are hereby authorized and directed to take all such further actions as may be necessary and appropriate to effect the purposes of this Resolution; and be it further

RESOLVED, that certified copies of this Resolution shall be furnished to the Office of the County Executive, the County Attorney, the Deputy Budget Director, the Chief Information Officer, the Commissioner of Environment and Planning, and any other party deemed necessary and proper; and be it further

RESOLVED, that this Authorization take effect immediately.

Exhibit A

CERTIFICATE OF INCORPORATION
OF
ERIENET LOCAL DEVELOPMENT CORPORATION

A Not-For-Profit Local Development Corporation
under Section 1411 of the Not-For-Profit
Corporation Law of the State of New York

THE UNDERSIGNED, being over the age of eighteen years, for the purpose of forming a not-for-profit local development corporation pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, hereby certifies as follows:

FIRST: The name of the corporation shall be “ErieNet Local Development Corporation” (hereinafter referred to as the “Corporation”).

SECOND: The Corporation will be a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York and, as provided in Section 1411 of the Not-For-Profit Corporation Law, will be a charitable corporation as defined in Section 201 of the Not-For-Profit Corporation Law. The Corporation shall serve as a public instrumentality of and supporting organization for, but separate and apart from, Erie County, New York (the “County”). There is no requirement under the New York Not-for-Profit Corporation Law or any other statute of the State of New York requiring any approval or consent before filing of this certificate of incorporation.

THIRD: The purposes for which the Corporation is to be formed and operated are exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, improve and maintain job opportunities, and lessen the burden of government and act in the public interest. In furtherance of said purposes, the Corporation’s powers shall include:

(a) To foster the creation, retention and expansion of jobs and economic opportunities for the benefit of the County, New York State and local economies; and

(b) To construct, acquire, rehabilitate and improve for use by others, facilities in the territory in which its operations are principally to be conducted, to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain and/or lease such facilities on its behalf or for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto;

(c) To acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein;

(d) To apply for loans and borrow money without limit as to amount; to make, draw, accept, endorse, execute and issue negotiable bonds, debentures, notes and other obligations therefor;

(e) To sell, lease, mortgage or otherwise dispose of or encumber any such facilities or any of its real or personal property or any interest therein upon such terms as it may determine;

(f) To enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof, and otherwise to carry out its corporate purposes and to foster and encourage the location or expansion of facilities and related businesses in the territory in which the operations of the Corporation are principally to be conducted;

(g) To apply for and make grants and loans and to execute any and all documents necessary in connection therewith;

(h) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its members, directors, officers or any private person;

(i) In general, to perform any and all acts and things, and exercise any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation.

FOURTH: The Corporation's mission and public objective, which the Corporation's purposes will achieve, include, but are not limited to, the lessening of the burdens of government by undertaking and promoting economic development projects and initiatives in the Erie County, New York area that will include real estate leasing, acquisition, development and management, real estate project finance, infrastructure development, operation and maintenance, along with other community-based economic development activities permissible under the Not-For-Profit Corporation Law.

FIFTH: The operations of the Corporation will be principally conducted within the territory of Erie County, New York and surrounding communities.

SIXTH: Pursuant to the requirements of Section 1411(e) of the Not-For-Profit Corporation Law:

(a) All income and earnings of the Corporation shall be used exclusively for its corporate purposes with the intent being that all income and earnings will be expended or deposited in appropriate reserves for corporate purposes; to the extent not so used, the income and earnings will accrue and be paid to the Job Development Authority to the extent required by Section 1411 of the Not-for-Profit Corporation Law.

(b) The property of the Corporation is irrevocably dedicated to its corporate purposes. No part of the income or earnings of the Corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to, any member, director or officer of the Corporation, or private person, corporate or individual, or to any other private interest, except that the Corporation may repay loans made to it and may repay contributions (other than dues) made to it to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1986, as amended.

(c) If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation shall be dissolved in accordance with the provisions of paragraph (g) of Section 1411 of the Not-For-Profit Corporation Law upon the repayment or other discharge in full by the Corporation of all such loans.

SEVENTH: (a) The Corporation shall not attempt to influence legislation by propaganda or otherwise, or participate in or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

(b) The Corporation shall not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

EIGHTH: Upon the dissolution of the Corporation no member or private person, corporate or individual, or other private interest, shall be entitled to any distribution or division of its remaining funds and other property and rights and interests in property, and the balance thereof, after the payment of all debts and liabilities of the Corporation of whatsoever kind and nature, (including the payment of loans and contributions the repayment of which has been authorized in the certificate of incorporation) shall be distributed to Erie County, New York for furtherance of the purposes set forth in paragraph (a) of Section 1411 of the Not-for-Profit Corporation Law of the State of New York. Any of such assets not so disposed of shall be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the Not-For-Profit Corporation Law.

NINTH: The offices of the Corporation shall be located in Erie County, New York.

TENTH: The offices of the Corporation shall be functionally separate from those of Erie County or any of its affiliated entities (collectively, the “County Entities”) (although such office may be in a facility leased from the County or any of its affiliates on arms-length terms). The Corporation at all times shall:

- (a) maintain separate accounting records and other corporate records from those of the County Entities;
- (b) not divert the Corporation’s funds to any other person or for other than the use of the Corporation and not commingle any of the Corporation’s assets with those of the County Entities;
- (c) pay any employee, consultant or agent of the Corporation, or any other operating expense incurred by the Corporation, from the assets of the Corporation and not from the assets of any of the County Entities;
- (d) maintain its own deposit account or accounts, separate from those of the County Entities, with commercial banking institutions and/or trust companies;
- (e) to the extent that the Corporation contracts or does business with vendors or service providers where the goods and services provided are partially for the benefit of any other person, the costs incurred in so doing shall be fairly allocated to or among the Corporation and such persons for whose benefit the goods and services are provided, and the Corporation and each such person shall bear its fair share of such costs;
- (f) conduct its business in its own name and conduct all material transactions between the Corporation and the County Entities only on an arm’s-length basis;
- (g) observe all necessary, appropriate and customary corporate formalities, including, but not limited to, holding all regular and special members’ and directors’ meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of such meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records, and accounts, including, but not limited to, intercompany transaction accounts. Regular members’ and directors’ meetings shall be held at least annually;
- (h) ensure that decisions with respect to its business and daily operations shall be independently made by the Corporation (although the officer making any particular decision also may be an employee, officer or director of the County Entities);
- (i) act solely in its own corporate name and through its own authorized officers and agents, and use its own stationery;

(j) other than as expressly provided herein, pay all expenses, indebtedness and other obligations incurred by it;

(k) not enter into any guaranty, or otherwise become liable, with respect to any obligation of the County Entities;

(l) cause any financial reports required of the Corporation to be prepared in accordance with generally accepted accounting principles and be audited annually and be issued separately from, although they may be consolidated with, any reports prepared for any member of the County Entities; and

(m) ensure that at all times it is adequately capitalized to engage in the transactions contemplated herein.

ELEVENTH: The types or classes of Membership in the Corporation and the number of Members of the Corporation shall be described in the Corporation’s By-laws.

TWELFTH: The Corporation shall be managed by a Board of Directors, who are to be comprised of those persons named in paragraph THIRTEENTH hereof (the “Directors”). Each of the Directors will serve at the pleasure of the Member and continue to hold office until his or her successor is appointed by the Member. Any subsequent increase or decrease in the size of the Board of Directors will require the unanimous approval of the Member(s) and the affirmative vote of a majority of the Directors.

THIRTEENTH: The Corporation will consist of not less than seven (7) nor more than fifteen (15) Directors. The Directors will be appointed by the Member and will include (a) Erie County Legislature Majority Leader, ex officio, (b) Erie County Legislature Minority Leader, ex officio (c) Erie County Deputy Budget Director, ex officio, (d) Erie County Chief Information Officer, ex officio, (e) Erie County Attorney, ex officio, (f) Erie County Commissioner of Environment and Planning, ex officio, (g) Buffalo and Erie County Public Library Director, ex officio, and (h) any additional person(s) as so appointed by the Member.

The names and addresses of the initial Directors of the Corporation are as follows:

- Timothy Meyers
Erie County Legislature Majority Leader
95 Franklin Street, 4th Floor, Buffalo, New York 14202
- Joseph Lorigo
Erie County Legislature Minority Leader
95 Franklin Street, 4th Floor, Buffalo, New York 14202

Benjamin Swanekamp
Deputy Director, Erie County Division of Budget and Management
95 Franklin Street, 16th Floor, Buffalo, New York 14202

Michael C. Breeden
Chief Information Officer
95 Franklin Street, Room 1500A, Buffalo, New York 14202

Michael Siragusa, Esq.,
Erie County Attorney
95 Franklin Street, Room 1634, Buffalo, New York 14202

Daniel Castle
Commissioner
Erie County Department of Environment and Planning
95 Franklin Street, 10th Floor, Buffalo, New York 14202

Jeannine M. Doyle
Director
Buffalo and Erie County Public Library
1 Lafayette Square, Buffalo, NY 14203

FOURTEENTH: The duration of the Corporation shall be perpetual.

FIFTEENTH: The Corporation shall indemnify each Member, each Director, each officer, and, to the extent authorized by the Board of Directors, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Not-For-Profit Corporation Law.

SIXTEENTH: The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is as follows: ErieNet Local Development Corporation, 95 Franklin Street, 16th Floor, Buffalo, New York 14202.

SEVENTEENTH: The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation or by majority vote of the Member(s).

EIGHTEENTH: The Corporation will not do any of the following:

(a) Without the affirmative vote of all Members of the Corporation and the affirmative vote of a majority of the Directors, increase or decrease the number of Members of the Corporation or increase or decrease the number of Directors of the Corporation.

(b) Without the affirmative vote of a majority of the Directors of the Corporation (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability to pay its debts generally as they become due or (vii) take any corporate action in furtherance of the actions set forth in clauses (i) through (vi) of this paragraph.

(c) Without the affirmative vote of all of the Directors of the Corporation and all of the Corporation’s members, merge or consolidate with any other corporation, company or entity or, except to the extent contemplated by paragraph THIRD hereof, sell all or substantially all of its assets or acquire all or substantially all of the assets or capital stock or other ownership interest of any other corporation, company or entity,

IN WITNESS WHEREOF, this certificate has been subscribed this ____ day of _____, 2021.

Robert G. Murray, Esq., Incorporator
Harris Beach PLLC
726 Exchange Street, Suite 1000
Buffalo, New York 14210

(4-2) Legislators Lorigo and Mills voted in the negative.

8. COMM. 24E-15 (2021)
COUNTY EXECUTIVE

November 29, 2021

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

RE: Payment in Lieu of Taxes (PILOT) Agreement for Solar Energy Systems 503 Elk Street,
City of Buffalo

Dear Honorable Members:

The Department of Environment and Planning, will be submitting a suggested resolution seeking authorization to enter into a Payment in Lieu of Taxes (PILOT) with the City of Buffalo and Solar Developer Elk Street Solar, LLC.

We respectfully request this item be placed on the agenda of the Energy and Environment Committee so it may be acted upon in the 2021 calendar year. Following the City of Buffalo’s expected Common Council action on the PILOT Agreement on November 30, 2021, DEP will submit a suggested resolution.

Should your Honorable Body require further information, I encourage you to contact Commissioner Daniel R. Castle, AICP in the Department of Environment and Planning. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

(6-0)

9. COMM. 24E-24 (2021)
COUNTY EXECUTIVE

WHEREAS, a number of localized failures have occurred on the clay tile roof system that has compromised pedestrian safety, and an Emergency Declaration was issued on September 30, 2019 to retain the services of a Registered Roof Consultant to complete a forensic investigation of the failing clay tile system and procure overhead protection scaffolding and debris netting; and

WHEREAS, the completion of the investigation by the Registered Roof Consultant recommends that remedial action be taken to ensure that the clay tile units be removed and re-secured in a structurally-sound and code compliant manner; and

WHEREAS, the County of Erie will receive 50% reimbursement from New York State for this project; and

WHEREAS, the County Executive is requesting authorization to enter into an Agreement with Bell & Spina Architects-Planners P.C. to provide professional design and construction administration services for the SUNY Erie Community College City Campus 2021 Ellicott Street Building Clay Tile Roof Reconstruction project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into an Agreement with Bell & Spina Architects-Planners P.C. to provide professional design and construction administration services for the SUNY Erie Community College City Campus 2021 Ellicott Street Building Clay Tile Roof Reconstruction project; and be it further

RESOLVED, that the Comptroller’s Office be authorized to make payment for all the above from the approved capital budget, Fund 480, Funds Center 122, Capital Project E.17002 – Roof Replacement, Exterior Waterproofing and Masonry (Collegewide) – Erie Community College, in an amount not to exceed \$170,000; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner’s Office, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller, and one copy to SUNY Erie and Financial Officer.

(6-0)

HOWARD J. JOHNSON, JR.
CHAIR